AMENDMENTS TO THE DRAWINGS

The attached sheet includes a more legible version of Fig. 2, as filed originally. This sheet, which includes Fig. 2, replaces the original sheet including Fig. 2.

Attachment: Replacement Sheet (Fig. 2)

REMARKS/ARGUMENTS

Replacement Drawing

The Examiner is requested to approve the accompanying replacement drawing (Fig. 2). As noted above, the replacement drawing is a more legible version of Fig. 2, as filed originally. No new matter has been added.

Claim Amendments

Claims 1-24 have been canceled. New claims 25-29 have been introduced to recite a method for alleviating snoring. The claimed method is fully supported by the present application as originally filed. No new matter has been added.

Upon entry of these claim amendments, claims 25-29 will be pending in the present application.

Office Action

The office action raised restriction requirement as to the following groups of claims: Group I (claims 1-16, 23 and 24, directed to a composition), Group II (claims 17-20, directed to method of preparing a composition), and Group III (claim 21, directed to a method of delivering an active agent to the nose or throat). Inasmuch as claim 22 was worded as a "use" claim, the restriction did not classify claim 22 under any group.

The title has been objected to as allegedly not descriptive. The office action required a new title clearly indicative of the invention to which the claims are directed.

The office action made recommendations and/or raised objections with respect to the specification. The office action recommended arranging the layout for the specification as provided in 37 CFR § 1.77(b), and also noted that a section entitled "BRIEF DESCRIPTION OF THE DRAWINGS" is missing. The office action additionally recommended capitalizing trademarks wherever they appear, and italicizing the Latin names of botanical species. The office action further alleged that certain chemical names were improperly capitalized.

The claim format was objected to generally, to the extent that the claims lacked a proper opening article, e.g., "A" for independent claims and/or "The" for dependent claims.

Claim 13 has been objected to as containing a period in line 3.

The drawings, particularly Fig. 2, have been objected to as allegedly not legible. The office action required corrected drawing sheets in compliance with 37 CFR § 1.121(d).

Claims 2, 8, 10, 13 and 24 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

Claims 1-16, 23 and 24 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly indefinite.

Claim 23 has been rejected under 35 U.S.C. § 101 as allegedly failing to recite patentable subject matter.

Claims 1, 2, 4-5, 8, 12, 14-16 and 23 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by XP-002342759 ("Gaubert et al."), Applicant's own admission and/or U.S. Patent No. 5,192,528 ("Radhakrishnan et al.").

Claims 1-16, 23 and 24 have been rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,984,404 ("Talton et al.").

Claims 1-16, 23 and 24 have been provisionally rejected on the grounds of obviousness-type double patenting over claims 1-17 and 21 of U.S. Patent Application No. 11/570,493 (US 2007/0218114).

Discussion of the Office Action

With regard to the restriction requirement, as noted above, new claims 25-29 have been introduced to recite a method for alleviating snoring. The new claims recite a single inventive concept encompassed within claim 25, the sole independent claim. The introduction of new claims 25-29, and the cancelation of claims 1-24, are believed to render moot the restriction requirement. Accordingly, withdrawal of the restriction requirement is respectfully solicited.

With regard to the objection to the title, as noted above, the title has been amended to read: "ANTI-SNORING TREATMENT COMPRISING POSITIVELY CHARGED MULTILAMELLAR MICROPARTICLES." The title clearly reflects the invention to which the pending claims are directed, and is therefore believed to render moot the objection thereto. Accordingly, withdrawal of the objection to the title s respectfully solicited.

With regard to the Office's recommendations and objections concerning the specification, the amendments made in the replacement specification, submitted herewith, are intended to arrange the specification as provided by 37 CFR § 1.77(b). In addition, sections entitled "CROSS-REFERENCE TO RELATED APPLICATIONS" and "BRIEF DESCRIPTION OF THE DRAWINGS" have been added. Further, trademarks have been capitalized, Latin names of botanical species have been italicized, and chemical names are not capitalized. The replacement specification is therefore believed to be consistent with the Office's recommendations.

With regard to the objections as to claim format, the new claims are believed to incorporate the proper opening articles and, as noted above, claim 13 has been canceled. The cancelation of claim 13 and new claims are therefore believed to render moot all objections as to claim format. Accordingly, withdrawal of the objections as to claim format is respectfully solicited.

With regard to the drawings, replacement Fig. 2, submitted herewith, provides a cleaner version of Fig 2, which is believed to be sufficiently legible to overcome the objection to the drawings. Accordingly, withdrawal of the objection to the drawings is respectfully solicited.

With regard to the remaining rejections, the cancelation of claims 1-24 is believed to render moot the rejections under 35 U.S.C. § 112, first and second paragraphs, 35 U.S.C. § 101, 35 U.S.C. § 102(b), and 35 U.S.C. § 103(a). The cancelation of claims 1-24 is also believed to render moot the obviousness-type patenting rejection, as none of new claims 25-29 constitute an obvious variation of the inventions recited in claims 1-17 and 21 of U.S. Patent Application No. 11/570,493.

It is known in the art to alleviate snoring by applying a lubricant or moisturizer to the mucosa of the nose or throat. Typically, the lubricant or moisturizer is delivered via an oral spray. However, as explained in the preamble at para. [0007], it is found that the moisturizing or lubricating effect rapidly diminishes as the lubricant or moisturizer is transported away from its site of action.

Claim 25 of the present application is directed to the improvement in this method of treatment wherein the lubricant or moisturiser is incorporated in a plurality of multilamellar microparticles, each microparticle having a positive surface charge, the microparticles being distributed in a liquid base to form a composition for oral or nasal administration to the mucosa.

As described at para. [0046], each multilamellar microparticle in accordance with the invention has a stable, solid, onion-like structure. As discussed at paras. [0019]-[0020], microparticles of this type, and having a positive surface charge, are found to have particularly effective adhesion to the negatively charged mucosa of the nose and throat. This stabilizes the multilamellar microparticles at their site of action, where they break down slowly, layer by layer as described at para. [0027], releasing the lubricant or moisturizer over a much longer time period than has been achieved with prior art compositions. As discussed at para. [0030], these synergistic properties provide surprisingly more effective relief from snoring throughout the night. The invention recited in the amended claims is neither disclosed nor suggested in any of the cited art.

It is submitted that the amended claims are now clear and definite in scope, and clearly patentable in view of the cited references. Insofar as the claims recite derivatives or extracts of botanical species, it is submitted that the selection of a particular derivative or extract is not a critical feature of the invention now claimed. Moreover, numerous alternatives as to the pharmaceutically acceptable derivative or extract, which are suitable for Applicant's invention, are well known in the art. It is therefore well within the ability of one of ordinary skill in the art to select a pharmaceutically acceptable derivative or extract that may be expected to be effective for example as a nasal decongestant, in accordance with Applicant's invention.

Conclusion

Applicants respectfully submit that the present application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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